

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

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UNITED STATES OF AMERICA

CRIMINAL ACTION NO. 18-0324

VERSUS

JUDGE DONALD E. WALTER

BRIEN KEITH POWELL

MAGISTRATE JUDGE HORNSBY

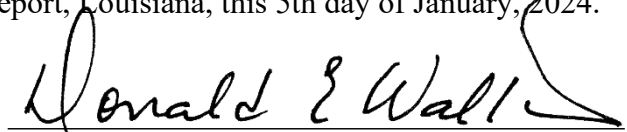
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**ORDER**

Before the Court is a “Motion To Appeal Magistrate’s Ruling” filed pro se by the defendant, Brien Keith Powell (“Powell”). See Record Document 117. Powell appeals the ruling by Magistrate Judge Mark L Hornsby denying Powell’s request for an evidentiary hearing and appointment of counsel with regarding to his pending motion filed pursuant to Title 28, United States Code, Section 2255. See Record Document 116.

Under the Federal Magistrate Act, a magistrate judge may issue binding rulings on non-dispositive matters. See 28 U.S.C. § 636(b)(1)(A). The magistrate judge’s order about which Powell complains is a non-dispositive matter under Federal Rule of Civil Procedure 72(a) and under 28 U.S.C. § 636(b)(1)(A). Having considered the order of the magistrate judge, Powell has not shown the magistrate judge’s ruling to be clearly erroneous or contrary to law. There is no constitutional right to counsel for post-conviction collateral attacks. See Pennsylvania v. Finley, 481 U.S. 551, 555 (1987); see also Irving v. Hargett, 59 F.3d 23, 26 (5th Cir. 1995). Accordingly, Powell’s appeal of the order denying the motion for appointment of counsel and for an evidentiary hearing is **DENIED** and the ruling of the magistrate judge is **AFFIRMED**.

**THUS DONE AND SIGNED** in Shreveport, Louisiana, this 5th day of January, 2024.



DONALD E. WALTER  
UNITED STATES DISTRICT JUDGE